

May 20, 2013

DEFENDANTS' SUPPLEMENTAL FEE APPLICATION

INTRODUCTION

Defendants submit this Supplemental Fee Application in response to the Court's May 9, 2013 Order (Doc. No. 660) directing them to submit a supplemental application reflecting the fees incurred in preparing and defending their successful fee application in connection with their Eighth Motion to Compel. Defendants respectfully request that this supplemental application be granted in full and that the Court award \$2,966.25, to be paid, along with the \$3,747.68 already ordered, within fourteen days of this Court's order granting this application.

STATEMENT OF FACTS

On September 5, 2012, Defendants filed their Eighth Motion to Compel (Doc. No. 511), seeking three documents referenced in another document produced by Ceglia pursuant to previous motions to compel. On November 7, 2012, this Court granted in part Defendants' motion and ordered Ceglia to produce immediately one of the documents—the March 30 Capsicum Communication. *See* Doc. No. 584 at 11–15. In that order, this Court also directed Ceglia to pay attorneys' fees and costs associated with Defendants' pursuit of the March 30 Capsicum Communication and directed Defendants to file a fee application detailing the fees and costs expended in this pursuit. *See id.* at 20–22. On November 19, as directed by the Court, Defendants filed their Fee Application and supporting declaration and exhibits. *See* Doc. No. 599. In a Decision and Order dated May 9, 2013, this Court granted Defendants' Fee Application in full, ordering that Ceglia pay Defendants \$3,747.68, and requesting Defendants to file a supplemental application within ten days of the order detailing the fees and costs incurred in the preparation and defense of the Fee Application. *See* Doc. No. 660 at 4, 12.

Defendants now request \$2,966.25 in fees they incurred in preparing their Fee Application. This time is detailed in the accompanying Southwell Declaration (“Southwell Dec.”) and calculated in accordance with the Court’s decision on Defendants’ Fee Application.

Attorney	Total Hours	Claimed Rate	Total Fees
Alexander H. Southwell	0.50	\$682.50	\$341.25
Amanda M. Aycock	6.25	\$420.00	\$2,625.00
TOTAL	6.75		\$2,966.25

ARGUMENT

The fees sought in this supplemental application are warranted to properly prepare the Fee Application and should be awarded in full. Defendants seek reimbursement for 6.75 hours of legal services for this work over a seven-day period, following the same approach for calculating hours expended in providing legal services as that used by Defendants in their Fee Application and expressly approved by the Court in its May 9 Order, as well as in several previous orders on Defendants’ fee applications following successful motions to compel. Doc. No. 600, ¶¶ 12–13; Doc. No. 660 at 6; *see also* Southwell Dec., ¶¶ 6–7; *see e.g.*, Doc. Nos. 292, 370, 615.

The time and rates sought were reasonably expended to prepare the Fee Application. In the seven days before Defendants filed their Fee Application, Defendants reviewed time entries, drafted, revised, and finalized their Fee Application and prepared the accompanying declaration and exhibits. These tasks were discharged efficiently, with the lion’s share of the preparation of the Fee Application performed by junior associate Amanda M. Aycock, with partner Alexander H. Southwell providing only necessary supervision and editorial assistance. As they did in their original Fee Application, Defendants exclude the same categories of legal services that might otherwise be included and the work of several associates and partners who contributed to the

filing, in an effort to conservatively estimate the hours incurred. *See* Doc. No. 599 at 5. Moreover, Defendants exclude the same categories of costs as they did in their original Fee Application. *See id.* In a further effort to present this Court with only the most conservative estimate of attorneys' fees incurred, Defendants have applied the same discount of 25% as their original Fee Application to this Supplemental Fee Application. *See* Doc. No. 600 at ¶ 3. The Court should therefore grant Defendants' narrowly tailored and reasonable Supplemental Fee Application in full.

CONCLUSION

For the foregoing reasons, Defendants respectfully request that this Court order Ceglia to pay Defendants' attorneys' fees in the total amount of \$2,966.25 within fourteen days of this Court's order granting Defendants' Supplemental Fee Application,¹ or submit documentation demonstrating why such payment is not possible, in accordance with this Court's May 3, 2012 Decision and Order on Defendants' Supplemental Fee Application. *See* Doc. No. 370 at 13–14.

¹ *See, e.g., Sheehy v. Wehlage*, 02CV592A, 2007 U.S. Dist. LEXIS 11722, at *27 (W.D.N.Y. Feb. 20, 2007) (requiring plaintiff to pay defendant's attorneys' fees for discovery abuse within fourteen days); *Ng v. HSBC Mortg. Corp.*, 07-CV-5434 (RRM) (VVP), 2010 U.S. Dist. LEXIS 33486, at *6 (E.D.N.Y. April 5, 2010) (same); *Citizens State Bank v. Dixie County*, 1:10-cv-224-SPM-GRJ, 2011 U.S. Dist. LEXIS 113752, at *9 (N.D. Fla. Oct. 3, 2011) (requiring plaintiff to pay defendant's attorneys' fees for discovery abuse within ten days).

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